

12.250 CANCELLATION OF CITATIONS, TRAFFIC WARRANTS, & CRIMINAL WARRANTS

Reference:

Procedure 12.215 - Cincinnati Parking Infraction (CPI)

Procedure 12.251 - Citations Issued to Department Owned Vehicles

Purpose:

To maintain integrity, professional excellence and community trust through the proper enforcement of state and local laws.

To establish a procedure for the timely correction of citations and warrants issued in error.

Policy:

When the Department becomes aware of a potential citation/warrant written in error, an immediate and thorough investigation will be made to ensure that charges against the wrongfully accused are dismissed and the correct violator is identified and charged with the offense.

Information:

Ohio Traffic Rules require submission of all written traffic citations to the court for proper disposition.

Submit traffic citations, parking infractions, and notices to appear, issued in error to the Records Section for official disposition in court under the following circumstances:

- When the issuing officer made an obvious error in judgment or committed a violation of Department policy.
- Issued a citation for a violation of a nonexistent sign, an inoperative traffic signal, unintentionally wrote a citation using an operator's license or identification of a person not the violator are examples when a dismissal request is justified.

Normally, a minor mistake; e.g., color of vehicle, street condition, omitting the make of the vehicle, etc., does not justify a request for dismissal.

When it is necessary to make a correction, do not scratch out the mistake. Strike a single line through the mistake to enable the defendant's copy to be compared when it is received in the system.

It is imperative that the warrant number(s) are checked accurately and that these warrants match the physical description of the subject along with statistical information (i.e.; date of birth, social security number, control number, etc.). Even one number being transposed on either the warrant or personal statistical data can mean the difference between a person being wrongly accused and the correct violator being identified and charged with an offense.

Procedure:

- A. Felony/Misdemeanor/Traffic Warrant(s)/Capias issued in error to adults not the violator of the offense:
 - 1. Officers discovering an error will notify a supervisor immediately.
 - 2. Supervisor will:
 - a. Verify appropriate case number with the clerk's office or through a computer query.
 - b. Verify if multiple charges have been listed with each case number (i.e.; A-D).
 - 1) Specify each charge to be cancelled if multiple charges exist.
 - c. Contact the appropriate Prosecutor's Office to request a cancellation of the warrant/capias.
 - 1) For **felony warrants/capiases**, contact the Hamilton County Prosecutor's office (0800-1600 hours) at 946-3000.
 - 2) For **misdemeanor/traffic warrants/capiases**, contact the City Prosecutor's office (0800-1700) at 352-5333.
 - 3) If an error is discovered after normal business hours make an entry into the district/section/unit blotter indicating the actions taken.
 - a) A first shift supervisor will contact the appropriate Prosecutor's office during the following business day to verify that a request for cancellation is in process.
 - d. Prepare a Form 17, briefly stating the facts including the subject's name, control number, court case number, all related charges (i.e.; A-D), and the title of the criminal offense. List the name of the prosecutor and action taken on the Form 17.
 - 1) Fax a copy of the Form 17 to the appropriate Prosecutor's office within one (1) hour following the initial phone call to validate the cancellation request.
 - a) The Prosecutor's office will place the request for cancellation on the court docket for the following day.
 - e. Route the Form 17 through the chain of command to the Bureau Commander.

3. The Bureau Commander will:
 - a. Indicate approval/disapproval by initialing the Form 17 within three working days and forward it to the appropriate prosecutor's office:
 - 1) **Felony Warrants/Capiases:**
 Hamilton County Prosecutor's Office
 Chief Assistant Prosecutor
 230 East Ninth Street
 Suite 4000
 Cincinnati, Ohio 45202
 - 2) **Misdemeanor and Traffic Warrants/Capias:**
 City Prosecutor's Office via interdepartmental mail
 - b. Notify the proper District/Section/Unit commander of the originating officer signing the warrant/capias of the approval/disapproval.
4. District/Section/Unit Commanders or his designee will:
 - a. Notify the officer under his command who signed original charge on the individual in error.
 - 1) The originating officer will re-open the investigation and attempt to identify and sign appropriate charges on the proper violator.

B. Citations:

1. Officer will notify a supervisor when a citizen makes a complaint about a Multi-Count Uniform Traffic Ticket (MUTT), Cincinnati Parking Infraction (CPI), or a Notice to Appear (NTA).
2. The supervisor will:
 - a. Conduct a preliminary investigation to determine the validity of the complaint.
 - b. If warranted, notify the Records Section Customer Service Supervisor to place a "hold" on the citation pending an investigation. A hold may be placed 24 hours a day. If all copies of the citation are present, no "hold" is necessary.
 - 1) Only Police Department supervisors, Traffic Engineering supervisors, and Public Utilities supervisors can place a hold on a CPI, MUTT, or an NTA.

- 2) The Records Section Commander will maintain a tickler file and conduct periodic audits to determine if the citation in question has been investigated and a disposition made.
- c. Forward the citation to the Police Chief's Office for assignment to the appropriate unit. A Form 17 will accompany the citation identifying the person contacted at Records Section and indicating the time and date the hold was placed and the name of the supervisor placing the hold. It will also include the name of the complainant and the nature of the complaint.
 - 1) If the original complaint is received at the issuing officer's unit, routing to the Police Chief's Office for assignment is not necessary.
 - 2) If a Public Utilities employee issued the citation, instruct the citizen to immediately mail or deliver the citation to the Public Utilities Office.
3. A supervisor, upon receipt of a citation from the Police Chief's Office, will verify a hold was placed and take action on the complaint based on the investigation.
 - a. If the complaint relates to a matter of law rather than policy or procedure, and does not qualify for cancellation, the citation will be:
 - 1) Returned to the violator if the original complaint was received at the issuing officer's unit of assignment. Explain the citation can either be paid out, if permitted, or registered for court or a hearing. Remove the hold at Records Section.
 - 2) Returned to Patrol Bureau with a Form 17 if the complaint originated from the Police Chief's Office, explaining the results of the investigation.
 - a) The Patrol Bureau will return the citation to the violator and remove the hold at Records Section.
 - b. If in the opinion of the investigating supervisor an error was made, document the error on a Citation Cancellation Request (Form 654) and request dismissal of the citation by the court or hearing officer.
 - 1) Do not tell the citizen the citation will be dismissed. Official disposition is adjudicated by the court/hearing officer. Advise the citizen he will receive a letter from the Chief's Office.
 - c. If a person already paid the citation, or is convicted of a violation from a citation issued in error, the investigating supervisor will document this in the "Details" section of Form 654.

- 1) The investigating supervisor will make a request for reimbursement and dismissal of the citation by the court or hearing officer.
4. If an officer discovers an error after writing the citation but before issuing it to the offender, he will turn in all copies of the citation to his supervisor who will verify and document the error on a Form 654.
 - a. The issuing officer's supervisor will indicate on the Form 654 the action taken or initiated in order to prevent recurrence of the error; e.g., signs to be changed or replaced, etc. Attach a Report of Conditions Affecting Other Departments (Form 318).
 - 1) In those instances where disciplinary action is initiated or recommended, (counseling, reprimand, etc.), do not include recommendations in the original Form 654.
 - a) Inform the bureau commander of such action via a brief statement on the bureau commander's copy of the Form 654.
 - 2) After approval by the district/section commander and affected bureau commander, forward the Form 654 with the citation attached to the Patrol Bureau Commander.
5. The Patrol Bureau Commander will stamp the back of the violator's copy "Recommend Cancellation by the Court" if approved.
 - a. When appropriate, the Patrol Bureau Commander will notify the complainant by letter of the action taken.
 - b. The Form 654 and attached citation will be forwarded to the Records Section Commander for review. Do not forward the Form 654 dealing with disciplinary action.
 - 1) Records Section will prepare a master docket sheet for all citations for submission to the court/hearing officer for cancellation.
 - 2) Send photocopies of all Forms 654 and citations to the Hamilton County Municipal Court Clerk's Office along with the master docket sheet by the second Friday of each month.
 - 3) The clerk will sign the master docket sheet as a record of receipt.
6. A Department employee will not schedule a parking infraction for a hearing unless the citation has been issued to the employee.
7. This procedure does not alter existing Procedure 12.215, Cincinnati Parking Infraction (CPI), regarding the processing of citations involving defective parking meters.

C. Juvenile Warrant(s)/Capias Issued in Error:

1. Officers observing an error will notify a supervisor immediately.
2. Supervisor will:
 - a. Immediately contact Hamilton County Juvenile Court's Director of Case Management and Docketing Office at 852-3016 and request a cancellation of the warrant(s)/capias.
 - b. Prepare a Form 17, briefly stating the facts including the subjects name, control number, court case number, and the title of the criminal offense.
 - 1) Supervisor must fax a copy of the Form 17 to the Hamilton County Juvenile Court's Director of Case Management and Docketing Office at 852-3009 within one (1) hour following the initial phone call to validate the cancellation request.
 - c. Route the Form 17 through the chain of command to the Bureau Commander.
 - 1) The Bureau Commander will indicate approval/disapproval by initialing the Form 17 within 3 working days and forward it to the Hamilton County Juvenile Court's Clerks Office.
 - d. Ensure the proper District/Section/Unit commander to whom the originating officer signing the warrant/capias reports to is notified of the approval/disapproval.
 - 1) District/Section/Unit commander or his designee will notify the officer who signed original charge on the individual in error.
 - a) Officer will re-open the investigation and attempt to identify and sign appropriate charges on the proper violator.

D. Juvenile Offenders Cited as Adults:

1. If an MUTT or NTA is issued to an individual believed to be an adult, and it is later determined the person in question is a juvenile, the following will apply:
 - a. If the issuing officer recognizes the mistake, the officer's supervisor will prepare a Form 654, briefly stating the facts.
 - 1) Send the Form 654 with the citation attached to the Warrant/ Identification Unit (W/IU) and mark "Attention: Warrant Supervisor."

- b. The W/IU will deliver the Form 654 with the citation attached to the Hamilton County Municipal Court Clerk's Office so it may be placed on the docket for the following court day.
 - c. If dismissal criteria is met, the court will mark the citation "Transferred to Juvenile."
 - d. The room clerk in Traffic Arraignment will transfer the citation to Juvenile Court.
 - e. Juvenile Court will assign a new court date and notify the juvenile of the mandatory court appearance.
 - 2. If a citation is submitted to court, and at the hearing it is discovered the person cited is a juvenile, follow Sections D.1.c. through D.1.e.
- E. Citations: Unwritten, Soiled, Defaced, or Unusable:
- 1. Dispose of soiled, defaced, obsolete, or unusable citations in the following manner:
 - a. Prepare a Form 17 briefly stating the reason.
 - b. List citations numerically by serial number.
 - c. The district/section commander and the bureau commander will indicate approval by initialing the Form 17 and forwarding it with all copies of the citations to the Supply Unit.
 - 1) A copy of the Form 17 will be returned to the unit authorizing removal of the citations from the computer system.
 - 2) The Supply Unit will keep a copy of the Form 17.
 - d. The Supply Unit will dispose of citations by shredding.
 - 2. Citations soiled by body fluids:
 - a. Place citations in an evidence bag and mark with a biohazard label.
 - b. Follow Sections E.1.a. through E.1.c. for routing the Form 17.
 - c. Send citations directly to the Court Property Unit with a copy of the Form 17.
 - d. Court Property Unit will dispose of citations by burning.